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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054

In the Matter of )  
 ) RM-  
Amendment of Section 73.622(b) ) MM Docket No. 99-  
DTV Table of Allotments )  
(Palm Springs, CA) )

To: Pam Blumenthal  
Video Services Division

**PETITION FOR RULE MAKING**

Gulf-California Broadcast Company ("GCBC"), permittee of DTV station KESQ-DT, Palm Springs, CA, respectfully submits this Petition to amend the FCC's DTV Table of Allotments, Section 73.622(b) of the FCC's Rules, by substituting DTV channel 44 for DTV channel 52 at Palm Springs, CA, and modifying GCBC's DTV allotment accordingly.

Petitioner GCBC, which operates as an ABC Television Network affiliate on NTSC channel 42 at Palm Springs, CA, was allotted DTV channel 52 in the FCC's 1997 DTV decision. See Sixth Report and Order, FCC 97-115, released April 21, 1997, at Appendix B-10.<sup>1/</sup>

On June 13, 1997, GCBC filed a "Petition for Reconsideration" of the FCC's allotment. GCBC argued that the FCC's allotment of DTV channel 52, with a severe power restriction, unlawfully "emasculates" KESQ-TV's service area. Id. at 2. Indeed, the FCC's allotment of channel 52 for KESQ-TV authorized only 67.3 KW of ERP, while KESQ-TV's current permit specifies 1820 KW of power on analog channel 42 -- a 68 percent reduction in

<sup>1/</sup> In its 1996 "proposed DTV allotments," the FCC proposed the allotment of DTV channel 43 for KESQ-DT and specified 110.1 KW of power (at 1087 meters).

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population served (from 2.5 million to 859,000). Moreover, GCBC further argued that its consulting engineers had predicted that interference from analog channel 52 at Corona, CA to GCBC's DTV channel 52 allotment at Palm Springs, CA would further reduce KESQ-TV's effective service area to only a fraction of the service area authorized for its analog channel 42 facility. Id. at Appendix B, page 2. Thus, GCBC urged the FCC to allot "another appropriate channel for KESQ-TV, at substantially higher power, that will more fairly and equitably replicate its [analog] service." <sup>2/</sup>

The FCC's Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Reports and Orders, FCC 98-315, released December 18, 1998, denied GCBC's Petition for Reconsideration without elaboration.

This Petition should be granted in order to cure the unlawful emasculation of GCBC's DTV service area (i.e., to better replicate its currently authorized analog service area) and also to alleviate the significant levels of predicted interference that would be received and caused as a result of the operation of KESQ-DT on channel 52 at Palm Springs, CA. See Engineering Exhibit at 3-5. Indeed, a compelling independent basis for a grant of this Petition is to eliminate a source of significant interference to KVEA (TV), Corona, CA (ch. 52), which is subjected to 9.1% interference (more than 1.2 million viewers) from the

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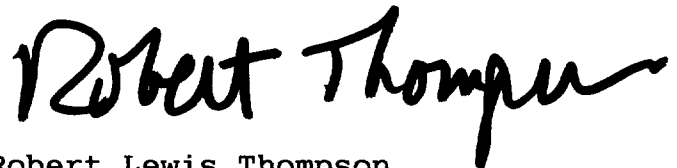
<sup>2/</sup> GCBC suggested possible allotment of channel 54. Id. at 4.

DTV-52 allotment at Palm Springs. See Engineering Statement at 4. In short, it is incontrovertible that the herein proposed DTV-44 allotment at Palm Springs (in lieu of DTV-52) would better serve the public interest and would result in a preferential arrangement of the FCC's DTV allotments.

The Petitioner's proposed allotment of DTV channel 44 meets the FCC's technical acceptability criteria set forth in Sections 73.622(f)(8)(ii) and 73.623(c)(2) of the FCC's rules. See Engineering Statement at 2-3. <sup>3/</sup>

WHEREFORE, in view of the foregoing, Petitioner urges that the FCC amend the DTV Table of Allotments to substitute DTV channel 44 for DTV channel 52 at Palm Springs and modify GCBC's DTV allotment for KESQ-DT accordingly.

Respectfully submitted,



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October 28, 1999

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<sup>3/</sup> GCBC proposes to operate DTV-44 from the same site, albeit with increased ERP, as that specified in its current CP; hence, the Petition complies with Section 73.625(a) of the FCC's Rules. (A Form 854 tower registration application is being filed for that facility concurrently with the filing of this Petition.)

ENGINEERING EXHIBIT  
IN SUPPORT OF PETITION FOR RULE MAKING  
TELEVISION STATION KESQ-TV  
PALM SPRINGS, CALIFORNIA

This Engineering Statement was prepared on behalf of television broadcast station KESQ-TV, Palm Springs, California, in support of a petition for rule making to amend Section 73.622(b) of the FCC Rules to change the KESQ-TV transitional digital television channel. In the course of the DTV proceeding before the Commission, KESQ-TV was allotted DTV Channel 52 with a maximum effective radiated power (ERP) of 67.3 kW using a directional antenna and an antenna height above average terrain (HAAT) of 1087 m using the KESQ-TV construction permit transmitter site.\* The purpose of this petition is to propose Channel 44 in lieu of Channel 52 for KESQ-TV's DTV transitional channel.

The petitioner proposes that Channel 44 be allotted with a nominal non-directional ERP of 120 kW and antenna HAAT of 1075 m. The geographic coordinates for the proposed Channel 44 allotment would be as follows:

33°38'55"North Latitude

116°33'34"West Longitude.

These coordinates describe the site of the KESQ-TV construction permit site on Pine Mountain, near Palm Springs, California. The proposed transmitting antenna will be

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\* See Appendix B of *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, FCC-98-315, Released: December 18, 1998.

located with a center of radiation at an elevation of 2330 m above mean sea level. Given an overall 8-radial 3.2 to 16.1-km average elevation of 1255 m for the proposed site, this equates to an antenna center of radiation HAAT of 1075 m. It is noted that, pursuant to Section 73.622(f)(8)(ii), the maximum permissible ERP for UHF DTV stations in Zone II is 120 kW for an antenna HAAT of 1075 m.

A detailed allocation study using an implementation of the FCC OET Bulletin No. 69 interference analysis procedure was prepared for the proposed Channel-44 allotment.<sup>†</sup> As detailed in Figure 1, the proposed Channel-44 allotment meets the *de minimis* 2%/10% interference procedures outlined in the FCC's DTV Processing Guidelines<sup>‡</sup> that are applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) of the FCC Rules.

The proposal is located within the Mexican border area. The proposed reference site is located 118 km from the closest point on the border with Mexico. The proposal meets the separation requirements with respect to all Mexican Allotments and Assignments listed in the *Memorandum of Understanding Between the United States and Mexico* ("MOU")<sup>§</sup> with the exception of an allotment for analog Channel 44 at San Luis Rio Colorado, SON. The proposed KESQ-DT facility would be spaced 211.1 km from the San Luis Rio Colorado Channel-44 allotment, whereas the MOU requires 244 km; a short-spacing of 32.9 km. It is requested that the FCC coordinate this proposal with the Mexico administration as a specially negotiated short-spaced allotment with

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<sup>†</sup> The duTreil, Lundin & Rackley, Inc. DTV interference analysis program is based on the program and procedures outlined by the FCC in the Sixth Report and Order; subsequent Memorandum Opinion and Order; and FCC OET Bulletin No. 69. A nominal grid size resolution of 2.0 km was employed. An Alpha based processor computer system was employed. The results have been found to be in very close agreement with the results of the FCC implementation of OET Bulletin No. 69.

<sup>‡</sup> See FCC *Public Notice*, "Additional Application Processing Guidelines for Digital Television (DTV)", Released: August 10, 1998.

<sup>§</sup> *Memorandum Of Understanding Between The Federal Communications Commission Of The United States Of America And The Secretaria De Comunicaciones Y Transportes Of The United Mexican States Related To The Use Of The 54-72 MHz, 76-88 MHz, 174-216 MHz And 470-806 MHz Bands For The Digital Television Broadcasting Service Along The Common Border*, July 2, 1998.

respect to the San Luis Rio Colorado Channel 44 allotment. The applicant hereby consents to ERP restrictions in the direction of the San Luis Rio Colorado allotment if such should be deemed necessary in the course of negotiations with the Mexican administration.

The primary rationale for the instant proposal is to alleviate the significant levels of predicted interference that would be received and caused as a result of the operation of KESQ-DT on Channel 52. The table below summarizes the service and interference population figures for KESQ-DT on Channel 52:

Facility	Baseline 41 dBu f(50,90) NL Service Population (thousands)	Baseline Service less Terrain Loss Population (thousands)	Received Interference Population (thousands)	Net Service Population (thousands)
KESQ-DT Ch. 52 67.3-kW(DA) Replication Allotment	2,388	1,188	356	832
Proposed KESQ-DT Ch. 44 120-kW(ND) Allotment	3,753	1,950	221	1,729
Population Difference	+1,365	+762	-135	+897

The “Baseline 41 dBu...” column is the calculated population within the predicted 41 dBu, f(50,90) noise-limited (NL) contour without regard to Longley-Rice terrain losses. The following column is the calculated population within the NL contour considering Longley-Rice predicted service losses due to terrain. This number represents the maximum service potential within the NL contour in the absence of interference. The “Received Interference Population” column is the total interference within the NL contour received by the facility from other nearby stations. The final column lists the net

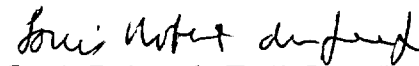
service population considering terrain and interference losses. As indicated above, the proposed Channel 44 allotment will serve a population of 1,729,000 compared to the Channel 52 allotment population of 832,000. The Channel 44 proposed allotment would serve a population of more than double that of the Channel 52 allotment.

However, even more compelling is that the allotment of Channel 44 in lieu of Channel 52 would eliminate a source of significant interference to KVEA(TV), Corona-CA (Channel 52). According to Appendix B of the FCC's *Sixth Report and Order* and subsequent *Second Memorandum Opinion and Order*, the proposed KVEA(TV) facility is subject to 9.1% interference (a population of 1,227,000). This has been confirmed to be almost entirely due to the KESQ-DT allotment on Channel 52. With the migration of KESQ-DT to Channel 44 this interference population to KVEA(TV) would be eliminated. It is noted that the FCC has acknowledged a bug in the way the FCC Longley-Rice code calculates the depression angle whereby the transmitting antenna height above ground is employed instead of the height above mean sea level. When employing the corrected version of the FCC code, the actual interference caused to KVEA(TV) from KESQ-DT is 2,360,000 (an interference percentage of 17.5% instead of 9.1% indicated in Appendix B). As indicated in Figure 1, the predicted interference caused by the KESQ-DT facility on Channel 44 is drastically lower: a total predicted interference to all stations not exceeding a population of 50,000.

A summary of the revised service area and population numbers for the KESQ-DT allotment as they would appear in the Appendix B of the FCC's *Sixth Report and Order* and subsequent *Second Memorandum Opinion and Order* are summarized below:

State and City	NTSC Channel	DTV Chan	DTV Power (kW)	Antenna HAAT (m)	DTV Service During Transition	
					Area (sq. km)	People (Thous)
CA LOS ANGELES	42	44	120.0	1075	22241	1729

As indicated above, the proposed Channel 44 DTV allotment for KESQ-DT would provide service to an estimated population of 1,729,000. This represents an increase in service population of 897,000 with respect to the KESQ-DT Channel-52 DTV allotment facility. It is evident from the above that the proposed Channel-44 allotment proposal would result in a preferential arrangement of FCC allotments.

  
Louis Robert du Treil, Jr., P.E.

October 22, 1999



ENGINEERING EXHIBIT  
IN SUPPORT OF PETITION FOR RULE MAKING  
TELEVISION STATION KESQ-TV  
PALM SPRINGS, CALIFORNIA

Summary of Allocation Analysis for Channel 44

Facility	Channel	TV or DTV?	Baseline Service Population (1990)	Permissible IX (%)	Total IX Caused by Proposed (1990)	Net New IX Caused by Proposed (1990)	Net Percent of Baseline (%)
KPXN, San Bernardino-CA	30	TV	13,526,998	2.0	57	0	0.00
KMIR-TV, Palm Springs-CA	36	TV	386,378	2.0	0	0	0.00
KESQ-TV, Palm Springs-CA (CP)	42	TV	2,338,508	1.7	0	0	0.00
KESQ-TV, Palm Springs-CA (License)	42	TV	382,519	2.0	0	0	0.00
KCAL-DT, Los Angeles-CA (CP)	43	DTV	13,299,973	2.0	47,931	41,708	0.31
KCAL-DT, Los Angeles-CA (DTV Allotment)	43	DTV	12,876,000	2.0	45,033	28,418	0.22
KHIZ-DT, Barstow-CA	44	DTV	626,000	2.0	2,501	2,501	0.40
KGMC-DT, Clovis-CA	44	DTV	1,163,000	2.0	0	0	0.00

Figure 1